

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-2, 4-5, 7, 9, 11-16, and 18-21 are presently active in this application. Claims 1-2, 4-5, 7, 9, 11-16, 18, 20, and 21 are amended by the present amendment without adding new matter.

In the outstanding Official Action, Claim 1-2, 4-5, 7, 9, 11-16, and 18-21 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,907,405 to Brett et al. (herein "Brett"). Applicants respectfully traverse that rejection with respect to the amended claims.

Initially, Applicants and Applicants' representative gratefully acknowledge the courtesy of a personal interview with Examiner Thu Thao Havan on October 18, 2006. During the interview, differences between the references and the present inventions were discussed, and claim amendments were discussed to more clearly recite those differences and thereby overcome the outstanding rejection. Comments and claim amendments discussed during the interview are reiterated below.

In particular, during the interview the Examiner explained that the claim language "alternative merchandise information," as recited in the independent claims, was broadly interpreted as "a closest available priority right to the desired priority right" as described in Brett.¹ However, as also discussed during the interview, Brett indicates that the desired priority right and the closest available priority right are made available within the same auction. For example, Brett indicates that a premium section of seats in a stadium (e.g., a desired priority right) as well as another section of seats in the stadium (e.g., a closest

¹ Office Action, page 2, last line, to page 3, line 2.

available priority right) are both made available within a same auction,² and the priority rights are delivered to the bidders at the close of the auction.³ Further, Brett is silent regarding any activity after a close of the auction, and also does not teach or suggest notifying an unsuccessful bidder of any merchandise that was not exhibited in the auction.

Therefore, to clarify the intended distinctions, independent Claims 1, 4, 7, 9, 11-13, 15, 18, 20 and 21 are amended to more clearly indicate that the alternative merchandise information is information concerning an unexhibited item of merchandise that was not exhibited in the auction. For example, in an auction for a Dynabook SS2010 notebook computer, alternative merchandise information regarding a “Dynabook SS3010 having a dirty ‘B’ key” (e.g., inventory item 002 in Applicants Figure 6) is an example of alternative merchandise information concerning an unexhibited item of merchandise (i.e., item 002) that was not exhibited in the auction.⁴

In view of this clarification, the pending amended independent claims, and the claims depending therefrom, are believed to patentably define over Brett and therefore are believed to be in condition for allowance.

² Brett at column 18, lines 23-65.

³ Brett at column 17, lines 8-12.

⁴ Specification at page 11, lines 26-27, page 12, lines 28-31, and Figure 6.

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Consequently, in view of the present amendment and in light of the above comments, no further issues are believed to be outstanding, and the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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